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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/651,912 | 08/30/2000 | Cathy D. Santa Cruz | | 2348 |

7590 12/21/2001
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EXAMINER

REICHLE, KARIN M

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3761

DATE MAILED: 12/21/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/651912

Applicant(s)

Santa Cruz et al

Examiner

Reverie

Group Art Unit

376

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☒ Responsive to communication(s) filed on 8-3-00
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-4 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-4 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☒ The drawing(s) filed on 8-3-00 is/are objected to by the Examiner
- ☒ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. _____.
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

Art Unit: 3761

The abstract of the disclosure is objected to because terminology which can be inferred, i.e. "Herein... is", should be avoided. Also, is the terminology "sanitary undergarment" a trademark? If not, the quotation marks should be deleted. On line 5, "there between" should be -- therebetween -- and on line 6, "residue" should be deleted. Correction is required. See MPEP § 608.01(b).

The prior art cited in the specification, e.g. page 3 and page 12, has been noted but will not appear on the front of a patent, if any, since such citations do not comply with 37 CFR 1.56, 1.97 and 1.98.

The use of the trademark Spandex, page 7, "KOTEX", "STAYFREE", "DEPEND" (page 9) has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Trademarks should be shown in all capital letters, without quotation marks, and accompanied by generic terminology.

The drawings are objected to because in Figure 1, the lines from 22, and 24 should be dashed to denote underlying structure. In Figure 2, the lines from 22, 16, 18, and 28 should be dashed to denote underlying structure. This also applies to 46-B, 48, 46-E, 46-F, 50 and 52. The objections to Figure 2 also apply to Figure 3. In Figure 5, the arrow from 18-B and in Figure 6, the lines from 16, 20, 24 and 28 should also be dashed to denote underlying structure. In Figure

7, the lines from 58, 60 and 46 should be dashed. Correction is required.

Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. On page 16, lines 11-12, 15-16, and 17-18, "adhesively attached" should be -- adhesive covered by a -- to be accurate. On page 16, last line and page 17, line 5, "adhesive" and "adhesively secured" should be -- said adhesive thereon-- and -- secured by said adhesive thereon -- to be accurate.

The disclosure is objected to because of the following informalities: 1) Are the words between parenthesis, e.g. page 1, line 8, trademarks? If not, the quotation marks should be deleted.

2) Page 1, lines 8-9 appear to be inaccurate, i.e. fold or wrap the sides of the thighs?

3) On page 3, line 7, after '462', --- -- should be inserted.

4) The Summary Section, i.e. a description of the claimed invention, and the invention of the claims is not consistent in scope, see MPEP 608.01(d) and 1302.

5) On page 7, line 15 "With the "should be -- The --; on line 16, "being" should be -- is --, on line 18, "while" should be -- the --.

6) On page 8, line 5, "with" should be -- The --, on lines 6 and 8, "being" should be -- is --, on line 7, after "and", -- the -- should be inserted, on line 10, ". Thereby" should be --, thereby --.

7) On page 8, line 19, "with" should be deleted.

8) On page 9, lines 5 and 6, "Fig.s" should be -- Figs. --.

9) On page 9, line 12, "the applicants are not aware of any" should be -- none are apparently --.

On line 14, "the applicants prefer" should be -- there is a preference for --.

10) In the paragraph bridging pages 9-10, "having" (all) should be -- has --. "With bottom"

should be -- Bottom --. Also "adhesively attached removable strip" should be "adhesive covered by a removable strip.

11) On page 10, lines 9 and 12, "adhesive" should be deleted. On line 18, "residue" should be deleted

12) On page 10, last line, "Whereby" should be -- whereby--.

13) On page 11, lines 9-10, "Please... (54) as" should be -- The actual construction of the boxer shorts (54) is not disclosed or addressed as the construction of --. On line 13, "which --- the invention" should be deleted.

14) On page 11, lines 19, "the applicants prefer" should be deleted and after "herein", -- is preferred -- should be inserted. On line 17, "there between" should be -- therebetween --. On line 20, "Whereby, the " should be -- The -- and "adhesive " should be deleted.

15) On page 12, line 1, "Thereafter," should be -- After -- and on line 4, "whereby, " should be -- , the -- and on line 5 "residue" should be deleted.

16) The prior art list on page 12 should either be deleted or provided with explanation, if not already, in the "BACKGROUND" section

17) On page 6, lines 1-12, "substantially" (all) should be deleted.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 2 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Rudes.

Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Larson.

See Figures 1-4 and column 2, lines 8-20.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The other prior art references show a variety of openings and garments.

Claim 4 patentably distinguishes over the art.

Any inquiry concerning this communication should be directed to K. Reichle at telephone number (703) 308-2617. The Examiner's regular work schedule is Monday-Thursday.

K. Reichle:bhw

December 5, 2001

K M Reichle
Karin M. Reichle
Patent Examiner

Attachment for PTO-948 (Rev. 03/01, or earlier)
6/18/01

The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

1. Correction of Informalities -- 37 CFR 1.85

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may **NOT** be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made other than correction of informalities, unless the examiner has approved the proposed changes.

Timing of Corrections

Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a).

Failure to take corrective action within the set period will result in **ABANDONMENT** of the application.